

## **ADMINISTRATIVE PANEL DECISION**

Serena & Lily, Inc. v. Zhangguang Long

Case No. D2023-2676

### **1. The Parties**

Complainant is Serena & Lily, Inc., United States of America (“United States”), represented by RegitzMauck PLLC, United States.

Respondent is Zhangguang Long, China.

### **2. The Domain Name and Registrar**

The disputed domain name <serenaandlilyoutlet.com> (the “Domain Name”) is registered with Gransy, s.r.o. d/b/a subreg.cz (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 21, 2023. The original Complaint concerned two domain names: <serenaandlilyoutlet.com>, which is the subject of the current decision, and <serena-and-lily-outlet.com>. On June 22, 2023, the Center transmitted by email to the Registrars a request for registrar verification in connection with these two domain names. On June 22 and 26, 2023, the Registrars transmitted by email to the Center its verification response disclosing registrant and contact information for multiple underlying registrants disclosed by the Registrar, and inviting the Complainant to either amend the Complaint adding the Registrar-disclosed registrants as the formal Respondents and provide relevant arguments or evidence demonstrating that all the named Respondents are, in fact, the same entity and that all domain names are under common control, or indicate which of the two domain names will no longer be included in the current Complaint. Complainant filed an amended Complaint on July 3, 2023, requesting for partial withdrawal with regard to the domain name <serena-and-lily-outlet.com>. On July 4, 2023, the Center sent a Notification of Requested partial Withdrawal with regard to the domain name <serena-and-lily-outlet.com> and continued the case only for the Domain Name <serenaandlilyoutlet.com>.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint,

and the proceedings commenced on July 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 24, 2023. Respondent did not submit any formal response. Accordingly, the Center notified the Commencement of Panel Appointment Process on July 26, 2023.

The Center appointed Clive L. Elliott, K.C., as the sole panelist in this matter on August 1, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

#### 4. Factual Background

Complainant is a company incorporated in the United States operating retail and online stores specializing in bedding, furniture, lighting, art prints, and other home decor operating under the “Serena & Lily” brand.

Complainant is the registered owner of a number of trade marks for SERENA & LILY (Complainant’s Mark), including, but not limited to:

Mark	Jurisdiction	Registration No	Registration Date	Class
SERENA & LILY	United States	5,001,534	July 19, 2016	25
	United States	4,382,476	August 13, 2013	35
	United States	4,382,335	August 13, 2013	21
	United States	3,241,729	May 15, 2007	24

Complainant operates the following website “www.serenaandlily.com”.

According to the publicly available WhoIs, the Domain Name was registered on May 31, 2023. Complainant advises that at the time of filing the Complaint, the Domain Name redirected Internet users to the website “www.778vr.net/home/game?id=96479735”, which appears to be a Vietnamese online casino.

#### 5. Parties’ Contentions

##### A. Complainant

Complainant asserts that the Domain Name is confusingly similar to Complainant’s Mark as it contains Complainant’s Mark in its entirety, with the addition of the word “outlet”.

Complainant contends that Respondent has registered the Domain Name in bad faith and is cybersquatting the Domain Name.

Complainant states that Respondent has no rights or legitimate interests in respect of the Domain Name, and Complainant has not given Respondent any authorisation to use Complainant’s Mark. Complainant further notes that there is no evidence of any *bona fide* offering of goods and services by Respondent.

Complainant suggests that Respondent has registered the Domain Name with the intention of unlawfully redirecting consumers from Complainant’s website at the Domain Name by causing confusion for financial gain.

##### B. Respondent

Respondent did not reply to Complainant’s contentions.

## 6. Discussion and Findings

### A. Identical or Confusingly Similar

Complainant is a company incorporated in and operating within the United States. It has a retail and online business selling bedding, furniture, lighting, and a range of other home décor products. It does so under Complainant's Mark. Complainant's Mark is registered in the United States, with its trade mark registrations going back to 2007. Complainant has therefore established it is the owner of Complainant's Mark.

The Domain Name reproduces the words "Serena" and "Lily", along with the addition of the word "outlet". The addition of the word "and" in place of the ampersand "&" in the Domain Name does not prevent the Complainant's mark from being recognizable in the Domain Name. Indeed, the ampersand is not a valid character to register a domain name and Complainant's domain name <serenaandlily.com> also features the word "and" in place of an ampersand. The addition of the word "outlet" does not prevent a finding of confusing similarity. See sections 1.7 and 1.8 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Domain Name is therefore confusingly similar to Complainant's Mark.

The first ground under the Policy is made out.

### B. Rights or Legitimate Interests

Respondent has not filed a response. The Panel therefore has no reliable basis to find or infer that he or she might have rights or legitimate interests in the Domain Name.

Complainant argues that Respondent has no rights or legitimate interests in the Domain Name, and that it has not given Respondent any authorisation to use Complainant's Mark. Complainant points out that there is no evidence of any *bona fide* offering of goods and services by Respondent.

Given Respondent has not used the Domain Name, there is no basis to suggest that consumers have to date been misled or deceived. However, through its registration and use of the Domain Name, the Domain Name represents an impediment or blocking registration vis-à-vis Complainant. Complainant argues that Respondent has registered the Domain Name in order to unlawfully redirect consumers from Complainant's website at the Domain Name by causing confusion for financial gain.

In the absence of any response from Respondent and having failed to put forward any basis upon which Respondent might have rights or legitimate interests, the Panel finds that Respondent has not established relevant rights or legitimate interests pursuant to paragraph 4(c)(iii) of the Policy.

Instead, the Panel finds that the Domain Name including Complainant's mark combined with the term "outlet" which is the English word denoting an outlet for goods or services, carries a risk of implied affiliation with Complainant. See section 2.5.1 of [WIPO Overview 3.0](#).

Accordingly, Complainant has made an un rebutted *prima facie* case that Respondent has no rights or legitimate interests in respect of the Domain Name.

Complainant has established the second ground under the Policy.

### C. Registered and Used in Bad Faith

As noted above, in essence, Complainant's argument is that Respondent is a cybersquatter who has registered the Domain Name with the intention of unlawfully redirecting consumers from Complainant's website, to another website, or similar, at some point in the future.

The Panel is satisfied that in this particular case, it is proper to infer that Respondent had actual knowledge of Complainant and its trade mark rights. Noting the notoriety of Complainant's mark, the Panel finds that the confusingly similar Domain Name, targeting Complainant's mark, was registered in bad faith. The Panel also notes that the redirection of the Domain Name to an unrelated gambling website has been made in order to mislead consumers and such conduct constitutes use in bad faith. See section 3.1.4 of [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the Domain Name was registered and used in bad faith.

Complainant has therefore established the third ground under the Policy.

## **7. Decision**

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Name <serenaandlilyoutlet.com> be transferred to Complainant.

*/Clive L. Elliott/*

**Clive L. Elliott**

Sole Panelist

Date: August 25, 2023